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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,473	02/26/2004	Milind Rajadhyaksha	ML-0493C	6991
24902	7590	11/21/2005		
KENNETH J. LUKACHER SOUTH WINTON COURT 3136 WINTON ROAD SOUTH, SUITE 301 ROCHESTER, NY 14623			EXAMINER PUNNOOSE, ROY M	
			ART UNIT 2877	PAPER NUMBER

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/787,473

Applicant(s)

RAJADHYAKSHA ET AL.

Examiner

Roy M. Punnoose

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-32 and 37-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26-32 and 37-43 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Election***

1. Acknowledgement is made of applicant's election of claims 26-43 without traverse filed on August 10, 2005. In response to the species restriction of the previous office action, the applicant elected with traverse claims 27-29 and 37-43 along with generic claims 26 and 30-32. In the previous office action, the applicant was advised, "should the applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case." In the response, the applicant has not provided any required evidence. Additionally, the applicant amended and restructured the claims, which changed the scope of the invention, which in turn required additional and burdensome search. This was the reason for the restriction of the previous office action.

***Ex parte Quayle***

2. This application is in condition for allowance except for the following formal matters:

Applicant is required to either cancel claims 33-36, or, withdraw the traverse included in the papers filed on August 10, 2005.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

***Allowable Subject Matter***

3. Claims 26-32 and 37-43 are allowable.

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4. Claim 26 is allowable because prior art documents does not disclose a system for scanning tissue in which the illumination beam and returned illumination are cross polarized inside the tissue, in combination with the rest of the limitations of claim 26.
5. Claims 30-32 are allowable because they are dependent on independent claim 26 and they include all the allowable limitations of the parent claim.
6. Claim 27 is allowable because prior art documents does not disclose a system for scanning tissue in which the illumination beam and returned illumination from tissue are cross polarized, wherein said tissue is located in a solution which enhances brightness of one or more tissue structures, in combination with the rest of the limitations of claim 27.
7. Claims 28-29 are allowable because they are dependent on independent claim 27 and they include all the allowable limitations of the parent claim.
8. Claims 37 and 41 are allowable because the prior art of record, taken alone or in combination, fails to disclose or render obvious a system or method for scanning tissue or detect cancerous tissue cells comprising polarizing both the illumination light and the light returned from the tissue and controlling or adjusting the polarization of the illumination or returned beam, in combination with the rest of the limitations of the respective claims.
9. Claims 38-40 and 42-43 are allowable because they are dependent on independent claims 37 and 41 respectively, or an intermediate claim.
10. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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***Conclusion***

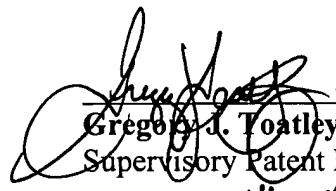
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Roy M. Punnoose** whose telephone number is **571-272-2427**.

The examiner can normally be reached on 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Gregory J. Toatley, Jr.** can be reached on **571-272-2800 ext.77**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**Roy M. Punnoose**  
Patent Examiner  
Art Unit 2877  
November 14, 2005

  
**Gregory J. Toatley, Jr.**  
Supervisory Patent Examiner  
14 Nov. 05